No. 08-296

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

KAREEM W. (ANONYMOUS),

Petitioner,

v.

MR. AND MRS. ANONYMOUS, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE NEW YORK COURT OF APPEALS

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether a father of a child born out-of-wedlock has the constitutional right to veto the child's planned adoption when the father failed to take any of the steps required by New York's adoption scheme, including his failure to pay any expenses in connection with the pregnancy or the child's birth, his failure to file any legal proceeding to secure parental rights, and his failure to register with the New York State Putative Father Registry.

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This is a contested adoption proceeding. Respondents, Mr. and Mrs. Anonymous, filed a Petition to adopt Seasia, a child born out-of-wedlock on April 1, 2004. Respondents also include Family Focus Adoption Services, Inc. ("FFAS"), the agency which placed Seasia and Tenisha D. (Anonymous), the birth mother. All join in this Brief.

At the time of Seasia's birth, her birth mother was 14 years old. She became pregnant at 13, stating that she had been raped by the then sixteen-year-old Petitioner. After the birth mother decided it was best that she place her baby for adoption, she worked closely with FFAS which provided her with prenatal care and counseling and located Mr. and Mrs. Anonymous as a suitable adoptive resource. The birth mother signed an extra-judicial consent for Seasia's adoption on April 3, 2004 and Seasia was placed with Mr. and Mrs. Anonymous on April 5, 2004. Neither FFAS nor the adoptive parents knew the identity or whereabouts of the birth father prior to her placement. The birth mother did not name the birth father to anyone at FFAS. His name is not on Seasia's Birth Certificate. Seasia has resided with her would-be adoptive parents uninterruptedly ever since.

Petitioner, Kareem W., was seventeen years old when Seasia was born. At that time he was living with his mother in Maryland where he moved in late January 2004. Prior to Seasia's birth, Petitioner failed to take any of the steps New York requires of unwed fathers in order to secure parental rights. Petitioner did not file any legal proceeding to secure parental rights; he did not register with the New York State Putative Father Registry pursuant to New York Social Services Law

§ 372-c, which would have enabled the Agency to learn of his existence and whereabouts; he did not pay for any expenses in connection with the pregnancy or Seasia's birth. Twenty three days after Seasia's placement with Respondents, the Petitioner filed a petition for paternity and custody of Seasia in Family Court.

STATEMENT

Facts Surrounding Seasia's Birth and Proposed Adoption

Three months before Seasia was born, the birth mother met with a social worker at FFAS to begin the plans for Seasia's adoption. The birth mother told FFAS that she did not know who the father was. Court Transcript, June 6, 2006 at 16. In February 2004, the birth mother met with Mr. and Mrs. Anonymous, a prospective adoptive couple identified by FFAS as suitable. The birth mother quickly became excited by the prospect of her child's adoption by the Respondents and even requested that they be present in the delivery room to witness the birth. Court Transcript, April 11, 2006 at 66, 121. After Seasia's birth, she was placed with Mr. and Mrs. Anonymous directly from her hospital discharge. FFAS was unable to ascertain the identity of Seasia's birth father. FFAS checked with the New York State Putative Father Registry and no person was registered as Seasia D.'s birth father. Court Transcript, March 24, 2006 at 15-18. FFAS received no money from Respondent for the birth mother's prenatal care, for hospital or doctor's bill in connection with Seasia's birth. Court transcript, June 1, 2006 at 112.

Petitioner became aware that the birth mother was pregnant in November 2003, almost six months before Seasia was born when the two extended families met to discuss the situation. That meeting focused on whether criminal charges were going to be lodged against the birth father for rape, a claim the birth mother consistently made. The birth mother testified at the hearing in Family Court that, when she was thirteen years old, the Petitioner "forced me to have sex" (Court Transcript, May 31, 2006 at 48) and told both the police (*Id.* at 75) and the District Attorney that she had been raped. Court Transcript, June 1, 2006 at 105. Petitioner did not ask any questions about the birth mother's health or well-being or her prenatal plans; nor did he offer to provide her with any financial assistance for the expenses of her pregnancy. Indeed, the meeting was completely devoid of any discussion of the baby or future plans for the baby. One of the Appellate Division Justices found that the purpose of the meeting to be "penal not paternal." (Dillon, J., dissenting). Pet. 21a.

Throughout the birth mother's pregnancy, the Petitioner and his mother belonged to the same church as the birth mother (Court Transcript, June 6, 2006 at 86); the Petitioner's relatives possessed the home phone and cell numbers of the birth mother's aunt (*Id.* at 88); the birth mother continued to reside at her residence and attended school regularly (Court Transcript, May 26, 2006 at 141). The Petitioner moved out of state to Maryland on January 30, 2004 (Court Transcript, March 20, 2006 at 58; March 21, 2006 at 11). Neither before nor after he moved did the Petitioner contribute anything financially to the birth mother (Court Transcript, June 1, 2006 at 110, 112). More than three

weeks after Seasia's placement in her adoptive home, the Petitioner filed a paternity and custody petition in Family Court. Court Transcript, June 6, 2006 at 124.

Court Proceedings Below

Family Court, after a hearing, denied the Petition to adopt and dismissed the proceeding on the grounds that the Petitioner was a "consent father" within the meaning of New York Domestic Relations Law § 111(1)(e) (one whose consent to the adoption is required). Pet. 27a-68a. Given that ruling, and the Petitioner's unwillingness to consent to the adoption, dismissal of the adoption proceeding was the only option available to Family Court. Family Court also denied the adoption on the ground that the birth mother's written consent was improperly secured because, as a 14-year-old at the time she signed the extrajudicial consent to the adoption (see New York Domestic Relations Law § 115-b), she should have been represented by independent counsel. The birth mother, however, continued throughout the contested proceeding to want this adoption to go forward and told Family Court that she was prepared to sign a new consent and joined in the appeal to the Appellate Division to overturn Family Court's order.

The Appellate Division, Second Department, affirmed on both grounds. Pet. 5a-26a. The Court divided over its determination that Petitioner was a "consent father" with one Justice dissenting. A majority of the Appellate Division forgave the Petitioner for failing to file any kind of legal proceeding before Seasia's birth even though New York Family Court Act § 517 authorizes the commencement of a paternity proceeding

during the mother's pregnancy. Pet. 12a. Moreover, the Petitioner was apparently forgiven for failing to file with the Putative Father Registry maintained by the New York State Department of Social Services because he was unaware of its existence. *Id.* (*cf. Lehr v. Robertson*, 463 U.S. 248, 263 & n.20 (1983).

The Court of Appeals unanimously reversed. Pet. 1a-4a. The court held that there was no "legally sufficient evidence to support" the lower courts' findings "that the extrajudicial surrender by the birth mother was invalid, and that the biological father, who intervened in the adoption proceeding, met the criteria for consent." Pet. 2a. It remanded the case to Family Court to enter an order of adoption by Mr. And Mrs. Anonymous, holding that, as a matter of law and fact, the Petitioner did not acquire the legal status of a father of a child born out-of-wedlock whose consent to the child's adoption was needed.

The Court of Appeals ruled that the record "did not support the trial judge's determination that the biological father is a consent father." Pet. 2a. The Court explained that

> [f]or the biological father's consent to be required before an adoption may proceed, he 'not only must assert his interest promptly (bearing in mind the child's need for early permanence and stability) but also must manifest his ability and willingness to assume custody' during the six months prior to the child's placement.

Pet. 2a-3a.

New York's Adoption Scheme for Out-of-Wedlock Children

New York was among the first States to rewrite its law after this Court's groundbreaking decision in *Stanley v. Illinois*, 405 U.S. 645 (1972) holding that men who fathered children out-of-wedlock ("unwed fathers") may have constitutionally protected parental rights to their offspring. *See Lehr v. Robertson, supra*, 463 U.S. at, 263 & n.20 (1983).

New York has created two categories with respect to the adoption of children born out-of-wedlock: infants placed for adoption before they are six months old and children placed when they are older than six months of age. New York Domestic Relations Law §§ 111(1)(d) and (e). New York law also divides the kind of rights unwed fathers have into two categories. Some fathers may acquire the status of "consent father," meaning their consent to the child's adoption is needed before the adoption may be finalized. Other fathers, more easily, may acquire the status of "notice father," meaning they have the right to be notified of the adoption proceeding and the opportunity to be heard, but not the right to veto the adoption. The Petitioner in this case was found by the Court of Appeals to be a "notice father," but not a "consent father."

When children born out-of-wedlock are placed for adoption over six months of age, the controlling statute is New York Domestic Relations Law § 111(1)(d). To become a "consent father" for children born out-of-wedlock who are placed for adoption when they are over six months of age, the father must "have maintained

substantial and continuous or repeated contact with the child." (*Id.*) For children placed for adoption, as in this case, before they are six months old, New York Domestic Relations Law § 111(1)(e) is the controlling statute.

Domestic Relations Law § 111(1)(e) by its terms provides that an unwed father's consent to the adoption of his under six-month-old child is required only where he has openly lived with the child or the mother for six continuous months immediately preceding the child's placement for adoption, openly acknowledged his paternity during such period, and paid reasonable pregnancy and birth expenses in accordance with his means. Part of this statute was declared unconstitutional in *Matter of Raquel Marie X.*, 76 N.Y.2d 387, 559 N.E.2d 418, 559 N.Y.S.2d 855 (1990), *cert. denied sub nom. Robert C. v. Miguel T.*, 498 U.S. 984 (1990). The Court of Appeals ruled § 111(1)(e) is unconstitutional because "the statutory requirement that the father openly live *with the mother* before the child's placement for adoption neither legitimately furthers the State's interests nor sufficiently protects the father's" (emphasis in original). 76 N.Y.2d 387, 394, 559 N.E.2d 418, 419, 559 N.Y.S.2d 855, 856.

Raquel Marie X. stressed that the Legislature intentionally created a statute which "objectively and unambiguously manifested that, through his efforts," the unwed father had "a substantial, continuous, meaningful family relationship" to the child. 76 N.Y.2d at 399, 559 N.E.2d at 422, 559 N.Y.S.2d at 859. In the case of newborns placed for adoption at or nearly immediately after their birth, the Court of Appeals held that only when an unwed father "promptly avails himself

of all the possible mechanisms for forming a legal and emotional bond with his child" will he acquire substantive parental rights. 76 N.Y.2d at 402, 559 N.E.2d at 424, 559 N.Y.S.2d at 861.

Raquel Marie X. made clear that, until the New York Legislature adopts a successor statute on the subject, the consent of an unwed father of a child placed for adoption before s/he is six months old is required only when the father evidences a prompt manifestation of "a willingness himself to assume full custody of the child," 76 N.Y.2d at 408, 559 N.E.2d at 428, 559 N.Y.S.2d at 865. What matters under New York law are the unwed father's actions concerning "public acknowledgement of paternity, payment of pregnancy and birth expenses, steps taken to establish legal responsibility for the child, and other factors evincing a commitment to the child." *Id.* So long as "a father [ ] has promptly taken every available avenue to demonstrate that he is willing and able to enter into the fullest possible relationship with his" child, he is entitled to the full protection of the status of a parent with constitutional rights to veto his child's adoption. 76 N.Y.2d at 403, 559 N.E.2d at 425, 559 N.Y.S.2d at 862. Tellingly, the Court applied its test in the companion case decided along with *Raquel Marie X.* favorably to the unwed father after concluding that "he did all he could have done under the circumstances." 76 N.Y.2d at 409, 559 N.E.2d at 428, 559 N.Y.S.2d at 865.

REASONS FOR DENYING THE PETITION

This Case Does Not Raise an Important Federal Question or Conflict With Any Decision of this Court. New York's Conclusion that Petitioner Failed to Secure Parental Rights Raises No New Federal Questions. The Disagreement between the New York Courts in this Case was over the Application of Well-Settled Law. The Constitution Does Not Protect the Rights of Unwed Fathers Who Have Failed to Establish a Relationship with Their Children in Accordance with New York Law

Through a series of cases including *Quilloin v. Walcott*, 434 U.S. 246 (1978), *Caban v. Mohammed*, 441 U.S. 380 (1979), *Lehr v. Robertson*, *supra*, and *Michael H. v. Gerald D.*, 491 U.S. 110 (1989) this Court clarified that the Constitution does not protect all unwed fathers equally and that, more importantly, the mere act of impregnating a woman does not create constitutional rights. New York's statutory scheme regulating the adoption of children born out-of-wedlock has been reviewed twice before by this Court in plenary decisions. *See Caban v. Mohammed*, *supra*; *Lehr v. Robertson*, *supra*. The ruling below is thoroughly consistent with the prior holdings of this Court. The legal conclusion reached by the Court of Appeals that the Petitioner failed to acquire the legal status of a "consent father," breaks no new ground and follows well-settled principles of constitutional law.

Considerably more is required of men than the mere act of procreation to secure constitutionally protected parental rights. As this Court explained in *Lehr*, unwed fathers possess only an "inchoate interest" (463 U.S. at 265) which they may, if they take meaningful steps to secure them, turn into constitutionally protectable rights. Whether this "interest" becomes a "right," however, depends entirely on the action or inaction of the unwed father.

This Court carefully examined New York's statutory scheme for allowing children born out-of-wedlock to be adopted including the rules by which unwed fathers may secure rights to their children. As this Court explained in *Lehr*, New York utilizes three categories: unwed fathers who have no rights of any kind; unwed fathers who have the right to be notified of the adoption proceeding and to appear and show why the adoption would not be in the child's best interests ("notice fathers"); and unwed fathers who have the right to veto the planned adoption ("consent fathers"). This Court has upheld this scheme in its entirety in *Lehr*.

The core principle of adoption law in New York is to protect children born out-of-wedlock and to create a system of proper reliance by prospective adoptive parents by creating objective rules with which unwed fathers must comply in order to secure rights in the first place. New York law carefully protects the potential rights of unwed fathers while simultaneously protecting the rights of mothers and children when the mother chooses to place an out-of-wedlock child for adoption.

Unwed fathers have the constitutional right to *secure* parental rights. But these rights do not automatically come into being. ("[T]he mere existence of a biological link does not merit [ ] constitutional protection. The actions of judges neither create nor sever genetic bonds." *Lehr*, 463 U.S. at 261). A unanimous New York Court of Appeals found that the Petitioner failed to take the minimum steps New York law insists unwed fathers take to acquire parental rights. What makes this case especially inappropriate for review by this Court is that the Petitioner failed to take even one such step.

This Court has already upheld the essence of New York's scheme in 1983 when it held that the unwed father in *Lehr* failed to comport with New York law and was properly not considered a father with rights. It is vital to appreciate why, in light of *Lehr*, there is no basis to provide plenary review here. *Lehr* held there was no constitutional violation even when New York courts completed the adoption of a child born out-of-wedlock without first providing the unwed father with notice and an opportunity to be heard. According to Justice White's dissenting opinion:

> Lehr visited Lorraine and Jessica in the hospital every day during Lorraine's confinement. According to Lehr, from the time Lorraine was discharged from the hospital until August, 1978, she concealed her whereabouts from him. During this time Lehr never ceased his efforts to locate Lorraine and Jessica and achieved sporadic success until August, 1977, after which time he was unable

> to locate them at all. On those occasions when he did determine Lorraine's location, he visited with her and her children to the extent she was willing to permit it. When Lehr, with the aid of a detective agency, located Lorraine and Jessica in August, 1978, Lorraine was already married to Mr. Robertson. Lehr asserts that at this time he offered to provide financial assistance and to set up a trust fund for Jessica, but that Lorraine refused. Lorraine threatened Lehr with arrest unless he stayed away and refused to permit him to see Jessica. Thereafter Lehr retained counsel who wrote to Lorraine in early December, 1978, requesting that she permit Lehr to visit Jessica and threatening legal action on Lehr's behalf. On December 21, 1978, perhaps as a response to Lehr's threatened legal action, appellees commenced the adoption action at issue here.

Id. at 469 (White, J., dissenting).

The Petitioner in this case was given notice of the proceeding and allowed to show that the planned adoption was not in Seasia's best interests. In this contest, it is unsurprising that the lower courts would conclude that the adoption was in the child's best interests. Mr. Anonymous has a B.A. in criminal justice and also graduated from the Police Academy in New York City. He is currently a Deputy Inspector for the Metropolitan Transit Authority. FFAS Report at 2. Mrs. Anonymous holds a Masters in Social Work and was employed at the League Treatment Center as a Program Social Worker working with mentally retarded

adults with psychiatric problems until she stopped working in 2004 to become a full-time mother. *Id.* The couple has been married since 1994. The only child they have raised is Seasia. *Id.*

The Petitioner, by contrast, was accused by the birth mother of raping her when she was 13-years-old. He was seventeen-years-old when Seasia was born, living with his mother with no meaningful source of income. Nonetheless, if the Petitioner were able to demonstrate that the adoption was not in Seasia's best interest, he could prevail in the proceedings below. What he could not do, however, was veto the adoption. In dramatic contrast, New York courts completed the adoption of Lehr's child without permitting him even an opportunity to be heard. This Court concluded the Constitution had not been violated. The conclusion below that Petitioner is a "notice father" but not a "consent father" fully comports with the Constitution.

New York law regarding the conditions under which unwed fathers may secure constitutional parental rights is by now well-established. If there remains any ambiguity it is over what to do when an unwed father never knew he impregnated someone and, as a consequence, took no steps to secure his parental rights, but would have had he known. *See Matter of Robert O. v. Russell K.*, 80 N.Y.2d 254, 262, 604 N.E.2d 99, 102, 590 N.Y.S.2d 37, 40 (1992). But when, as in this case, the unwed father did know more than five months before the child's birth that he is or will be the father of a child, New York law unambiguously commands that he take visible, public steps which would place adoption agencies and prospective adoptive parents on notice that the recently born out-of-wedlock child has a father who possesses substantive rights to the child.

As the Court of Appeals explained in *Matter of Robert O.*, 80 N.Y. 2d at 264, 604 N.E.2d at 103, 590 N.Y.S.2d at 43:

> States have a legitimate concern for prompt and certain adoption procedures and their determination of the rights of unwed fathers need not be blind to the 'vital importance' of creating adoption procedures possessed of 'promptness and finality,' promoting the best interests of the child, and protecting the rights of interested third parties like adoptive parents . . . Recognizing those competing interests — all of which are jeopardized when an unwed father is allowed to belatedly assert his rights — we . . . limited the period in which the father must act to the six continuing months immediately preceding the child's placement for adoption.

When fathers fail to take those necessary steps, they set adoption agencies and prospective adoptive parents on a course that allows them to move forward without fear that a child's placement and the consequent bonding that will follow will be disrupted after a late-acting unwed father emerges from the dark. As Judge Titone explained in his concurring opinion in *Matter of Robert O.*, 80 N.Y.2d at 269, 604 N.E.2d at 107, 590 N.Y.S.2d at 45:

> The importance of finality in the lives of the children involved in the adoption process is so obvious as to require little elaboration. One of the most crucial elements of a healthy

> childhood is the availability of a stable home in which each family member has a secure and definite place. In addition to the stake of the adopted child, the adoptive family is unquestionably adversely affected by any lingering uncertainty about the permanence of the adoption.

New York's adoption scheme depends on this principle. The rule in New York is quite simple. What matters is not the subjective intent of the unwed father, but whether he has demonstrated his interest in the child. *Matter of Raquel Marie X.*, *supra*, 76 N.Y.2d at 403, 559 N.E.2d at 425, 559 N.Y.S.2d at 862.

Adding up all of the findings of fact of the courts below that favor the Petitioner, he undertook precisely three steps altogether prior to Seasia's birth that have even the slightest bearing on this case. First, he attended a meeting of both families in November 2005 shortly after the members of both families first learned that the birth mother was pregnant. The dissenting Justice in the Appellate Division concluded that the primary purpose of this meeting was "penal not paternal" (referring to the ancillary concerns that the birth father engaged in statutory rape or sexual misconduct as a sixteen-year-old having sexual intercourse with a thirteen-year-old). Pet. 21a.

Second, in the words of Family Court, "Within his limited capabilities [the birth father] independent of the efforts of his mother on his behalf, rode his bike to church

in the hopeful expectation that he might see [the birth mother] – a small but significant act" (Pet. 46-47a) and told the church's pastor "that he wanted to be at the hospital when the child was born." Pet. 47a. Finally, the birth father (allegedly) went to Family Court to file a paternity petition, but did not file before Seasia's birth. Pet. 48a. The Court of Appeals held that, as a matter of law, these actions are insufficient to secure parental rights to the extent that the birth father has a veto power over Seasia's adoption.

Petitioner misconstrues New York law. The unconstitutional feature of the law identified in *Raquel Marie X* is that an unwed father's rights would have improperly been subject to being vitiated simply by the unilateral choice of the mother. The law struck down by the Court of Appeals required that the unwed father *live with the mother*; it was unconstitutional because a father could not comply with the law's requirement without the mother's acquiescence. 76 N.Y.2d 387, 394, 559 N.E.2d 418, 419, 559 N.Y.S.2d 855, 856. The remainder of the law which requires unwed fathers to take appropriate steps which do not depend on the consent or cooperation of the mother was upheld. *See* 76 N.Y.2d at 408, 559 N.E.2d at 428, 559 N.Y.S.2d at 865.

Petitioner also misconstrues what the Court of Appeals held in this case. The court did not, as Petitioner would have it, find fault with his inaction that was the result of the birth mother's lack of cooperation. It found fault with his inaction *that had nothing to do with the birth mother*. It is true that the birth mother kept the Petitioner at a distance. But "[i]t is well settled that a

natural mother ha[s] no obligation . . . to volunteer any information with respect to the [the father]" (*Matter of Robert O. v. Russell K.*, 173 A.D.2d 30, 35-36, 578 N.Y.S.2d 594, 597 (2d Dept.), *aff'd*, 80 N.Y.2d 254, 604 N.E.2d 99, 590 N.Y.S.2d 37 (1992) (*quoting Matter of Jessica XX*, 54 N.Y.2d 417, 427, 430 N.E.2d 896, 900, 446 N.Y.S.2d 20, 24 (1981)), and a birth mother may stay away from an unwed father without violating his rights, especially someone the birth mother views as her rapist. (*See, e.g., Matter of Baby Girl U.*, 224 A.D. 2d 869, 638 N.Y.S.2d 253 (3d Dept. 1996)).

There are countless things the Petitioner could have done to secure the status of "consent father" under New York law. He could have filed a paternity petition before the baby's birth or placement in her adoptive home. He could have filed with the Putative Father Registry. He could have gone to a lawyer and found out what steps he might have taken to gain parental rights under New York law (and what his responsibilities were). He could have offered money to the birth mother. He did none of these things. *Cf. Matter of Jessica XX v. Lorraine WW*, 54 N.Y.2d 417, 430 & n. 7, 430 N.E.2d 896, 901 446 N.Y.S.2d 20, 26 (1981), *aff'd Lehr v. Robertson*, 463 U.S. 248 (1983) (cataloguing the various things the birth father could have done, but did not, as factors properly considered in reaching the conclusion that he failed to take the minimal steps to acquire constitutional rights to notice of the adoption, including filing a notice of intention to claim paternity or a prompt application to intervene in the adoption proceeding).

New York law cares about actions, not intentions, of putative fathers because actions are traceable and knowable to adoption agencies and prospective adoptive resources. This is why both the New York Legislature and the Court of Appeals in *Matter of Raquel Marie X.*, *supra*, require that putative fathers actually file with the Putative Father Registry, file a petition for paternity, or otherwise take public steps so that adoption agencies and prospective adoptive parents will be able to know whether the child has a father whose consent to her adoption is required.

The record is clear that Seasia was placed with Mr. and Mrs. Anonymous under circumstances that neither FFAS nor the prospective couple had the slightest inkling that there was a birth father involved who may have statutory rights to Seasia. Because of the Petitioner's failure to register with the Putative Father Registry or file any legal action for custody or paternity, it was impossible for either FFAS or the prospective couple to know that there was a birth father in Maryland with rights to Seasia lurking in the background.

The Constitution does not require that prospective adoptive parents take risks when they accept out-of-wedlock children into their homes. States are free to fashion laws that protect the rights of unwed fathers but also advance sound public policy by encouraging unwed mothers to place children for adoption when the children are infants and also by encouraging adoptive couples to accept children into their home free from fear that months after they have bonded with their child a stranger will emerge and demand "his" child.

The State has an important interest in "ensuring swift, permanent placements" of newborns who "are more likely to be adopted and more readily bond with adoptive parents." *Matter of Raquel Marie X.*, 76 N.Y. 2d at 404, 406, 559 N.E.2d at 425, 559 N.Y.S.2d at 862. "Certainty and finality" are what the law seeks to achieve precisely to protect the infliction of needless harm. *See Matter of Sarah K.*, 66 N.Y.2d 223, 234, 487 N.E.2d 241, 246, 496 N.Y.S.2d 384, 389 (1985), *cert. denied sub nom. Kosher v. Stamatis*, 475 U.S. 1108 (1986). *See also Matter of Raymond AA v. Doe*, 217 A.D. 2d 757, 759, 629 N.Y.S.2d 321, 324 (3d Dept. 1995), *lv. app. denied*, 87 N.Y.2d 805, 663 N.E.2d 919, 640 N.Y.S.2d 840 (N.Y 1995) ("It is axiomatic that the State has a legitimate interest in establishing procedures which assure both a prompt adoption and the stability of the adopted child.").

It may well be that the Petitioner's subjective intent was to become Seasia's father. But New York law, consistent with the Constitution, requires more. If the Petitioner had won below, the result would have the unintended consequence of reducing the number of adoptions for children most in need of placement. The Constitution does not require such a poor public policy. The Order below is faithful to the Constitution. There is no reason to review it.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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